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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/586,939

07/24/2006

Rani Mary Joseph

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS

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BRIARCLIFF MANOR, NY 10510

EXAMINER

PHAN, HAI

ART UNIT

PAPER NUMBER

2614

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



<b>Office Action Summary</b>	<b>Application No.</b> 10/586,939	<b>Applicant(s)</b> JOSEPH ET AL.	
	<b>Examiner</b> HAI PHAN	<b>Art Unit</b> 2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 July 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 July 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |



### **DETAILED ACTION**

1. This Office Action is in response to the Applicants' communication filed on 07/24/2006. In virtue of this communication, claims 1-21 are currently pending in the instant application.

### **Drawings**

2. The drawings submitted on 07/26/2006 are objected to because the drawings only have numbers and do not have written descriptions or words associated with them and are not known electrical components or flow diagram boxes. The numbers do not suffice a description of the invention by looking at the drawings. A suggestion is made to write in the description on each drawing from the disclosure associated with each number. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an



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application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Information Disclosure Statement***

3. The information disclosure statement filed 07/24/2006 fails to comply with 37 CFR 1.98(a)(3)(i) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each reference listed that is not in the English language. The IDS is therefore partially considered by the examiner. The two foreign documents DE 4237005 and DE 10212565 have been placed in the application file, but the information referred to therein has not been considered.

### ***Specification***

4. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the second sense signal depending on another different condition where the "other condition is a volume setting of the sound source" (as recited in claim 15) and where the "other different condition is the dynamic range of the input audio signal" (as recited in claims 16).



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5. The disclosure is objected to because of the following informalities:

On page 4, line 1, reference 100 is not shown on the drawings;

On page 4, line 14, reference 122 is not shown on the drawings;

On page 4, line 16, reference 206 is not a memory device reader, 206 is used to refer to the method step on page 5, line 8 of fig 2;

On page 4, line 18, reference 208 is not a connection to a wired network, 208 is used to refer to the method step of fig 2 on page 5, line 10;

On page 4, line 21, references 210-216 to the sensors are not shown on the drawings. Note that on line 30, it is stated that 210 is the processor;

On page 4, line 25, references 214 and 216 are not shown on the drawings;.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-5 and 11-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Dougherty (U.S. Patent 5,907,622).

Regarding claims 1, 12-13, and 17 Dougherty discloses a sound source (audio system shown in Fig. 1 or 3) and the corresponding method comprising the input for



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receiving the input audio signal (112), input for receiving sense signal (126) where the sense signal depending on an ambient condition that is independent of sound (Fig. 6, 622, 624, ... 634; and col. 18, lines 49-58), the dynamic range controller (Fig. 1 and 3, element 120 or Fig. 8, element 512), and loud speaker (Fig. 1 and 3, element 116).

Regarding claim 2, Dougherty further discloses the input is selected from the group of radio, cassette tape player, CD player, or the like (col. 6, lines 32-35).

Regarding claims 3-5, Dougherty further discloses various dynamic range adjustments depending on the sense signal (col. 28, lines 3-67; col. 21, lines 50-53; col. 22, lines 57-67; col. 23, line 56 to column 24, line 3).

Regarding claim 11, Dougherty further discloses various sense signals from the numerous sensors (col. 18, lines 44-58).

Regarding claim 14, Dougherty further discloses the other condition is related to sound (audio) (col. 4, lines 39-41).

Regarding claims 15-16, with the best interpretation of the claims, Dougherty further teaches the conditions of volume setting and dynamic range (Fig 3, elements 322, 122, 124, 126)

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.



9. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. Claims 6-10 and 18-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dougherty (U.S. Patent 5,907,622).

Regarding claim 6-10 and 18-21, Dougherty discloses a sound source (audio system shown in Fig. 1 or 3) comprising the input for receiving the input audio signal (112), input for receiving sense signal (126) where the sense signal depending on an ambient condition(s) that is/are independent of sound (Fig. 6, 622, 624, ... 634; and col. 18, lines 49-58), the dynamic range controller (Fig. 1 and 3, element 120 or Fig. 8, element 512), and loud speaker (Fig. 1 and 3, element 116). Dougherty specifically fails to teach that the ambient condition is the time of day (as recited in claim 6), ambient light level (claim 7), genre of the music (claim 8), location of the sound source (claims 9 and 20), acoustic properties at the location of the sound source (claim 10, identity of the audience), distance between the loudspeaker and audience (claim 19),



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and source of the input audio signal (claim 21). However, Dougherty further discloses, in one example of the audio source environment, specifically the automobile, that the ambient conditions are sensed by the speedometer, tachometer, vibration sensor, climate control fan sensor, window position sensor, windshield wiper sensor, and transmission sensor (col. 18, lines 44-58). Dougherty further expands that his invention can be applied to other listening space such as the restaurant, on the boat, an outdoor movie theater, etc. (col. 3, lines 59-61). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to utilize the teaching of Dougherty's system and method in his various suggested listening space to include the specific ambient conditions that are particular to such listening space so that various useful ambient conditions can be measured to reduce their interference with the audio source thus enhancing the quality of the outputted sound.

Examples of some other ambient conditions can be seen in the U.S. patent issued to Shuttleworth et al. (6,897,781), col. 7, lines 18-20 and lines 42-55); or U.S. patent issued to Gundry et al. (7,551,745), col. 10, lines 42-43; or U.S. patent issued to Cooper et al (6,897,781), col. 3 line 67 to col. 4 lines 8); or U.S. patent issued to Hein, Jr. et al (U.S. Patent 6,805,633).



***Conclusion***

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HAI PHAN whose telephone number is (571)272-0486. The examiner can normally be reached on Monday-Friday (9:00AM-5:30PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on 571-272-7499. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/HAI PHAN/  
Examiner, Art Unit 2614

/Quoc D Tran/  
Primary Examiner, Art Unit 2614